

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Federal Express Corporation,

Plaintiff,

v.

Accu-Sort Systems, Inc.,

Defendant.

04 MBD 10115

Civil Action No. _____

**(Involving A Third Party Discovery
Subpoena Served in Connection With Civil
Action No. 01-2503 MA/BRE in the United
States District Court, Western District of
Tennessee)**

PLAINTIFF'S MOTION TO QUASH SUBPOENA

Pursuant to Rule 45(c)(3)(A) of the Federal Rules of Civil Procedure, Federal Express Corporation ("FedEx") moves this Court for an Order quashing a subpoena *duces tecum*, dated April 7, 2004 ("the Subpoena"), issued to Nixon Peabody LLP by the Defendant, Accu-Sort Systems, Inc. ("Accu-Sort"). In support of its Motion, FedEx submits the attached Memorandum of Law and Affidavit of Robert R. Ross.

WHEREFORE, FedEx respectfully asks this Court to quash the Subpoena or, in the alternative, to stay any response to the Subpoena in order to allow the Western District of Tennessee to address Accu-Sort's anticipated motion to compel production of a duplicative set of documents by FedEx.

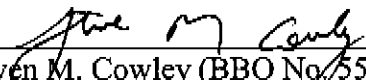
REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), FedEx hereby requests oral argument. In addition, in the interest of resolving this discovery dispute expeditiously, FedEx hereby requests an expedited hearing in this matter.

LOCAL RULE 7.1(a)(2) CERTIFICATION

The undersigned hereby certifies, pursuant to Local Rule 7.1(a)(2), that counsel for the Plaintiff has conferred with counsel for the Defendant and attempted in good faith to resolve the issues presented in this Motion to Quash the Subpoena but was unable to do so.

FEDERAL EXPRESS CORPORATION,
By its attorney,



Steven M. Cowley (BBO No. 554534)
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Boston, MA 02110
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CERTIFICATE OF SERVICE

I certify that on this 19th day of April, 2004, I caused a copy of the foregoing Plaintiff's Motion To Quash Subpoena to be served upon John J. O'Malley, Esq., Volpe and Koenig, P.C., United Plaza, Suite 1600, 30 South 17th Street, Philadelphia, PA 19103, attorney for Accu-Sort, and Timothy Mungovan, Esq., Nixon Peabody LLP, 100 Summer Street, Boston, Massachusetts 02110, by fax and Federal Express overnight delivery.



Steven M. Cowley